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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,720	01/17/2006	Haruo Imawaka	Q92718	1473
65565 7590 09/19/2008 SUGHRUE-265550 2100 PENNSYLVANIA AVE. NW WASHINGTON, DC 20037-3213				
EXAMINER				
ZUCKER, PAUL A				
ART UNIT		PAPER NUMBER		
1621				
MAIL DATE		DELIVERY MODE		
09/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,720

Applicant(s)

IMAWAKA ET AL.

Examiner

Paul A. Zucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 7-9, 19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 9 is/are allowed.
- 6) ☒ Claim(s) 1, 8 and 21 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 July 2009 has been entered.

Current Status

2. This action is responsive to Applicants' amendment of 29 August 2008.
3. Receipt and entry of Applicants' amendment is acknowledged.
4. Applicant's cancellation of claims 2-6, 10-18 and 20 is acknowledged.
5. Applicant's addition of claim 21 is acknowledged.
6. Claims 1, 7-9, 19 and 21 are pending.
7. The rejection under 35 USC § 112, first paragraph, set forth in paragraph 6 of the previous Office Action mailed 15 April 2008 is withdrawn in response to Applicants' amendment..
8. The rejections under 35 USC § 102 set forth in paragraphs 10, 11 and 13 of the previous Office Action mailed 15 April 2008 are withdrawn in response to Applicants' amendment.

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New Rejections and Objections
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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 8 and 21 are rejected under 35 U.S.C. 102 (b) as being anticipated by Dobner et al (Chemistry and Physics of Lipids Synthesis of Deuterium-Labeled Methyl-branched Fatty Acids, 1991, 60(1), pages 21-28). Dobner discloses (Page 22, bottom) the compound 14-hydroxy-2-propyl tetradecanoic acid which corresponds to a compound of formula (I-2). The Examiner considers the compound itself to represent a pharmaceutical composition with any residual traces of solvents and impurities corresponding to a carrier.
10. Claims 1, 8 and 21 are rejected under 35 U.S.C. 102 (b) as being anticipated by Akopyan et al (Armaysanskii Khimicheskii Zhurnal, 1976, 29(12), pages 1039-1042, Abstract with STN printout). Akopyan discloses (See STN printout) the compound $\text{HOOCCH}(\text{n-C}_3\text{H}_7)\text{CH}_2\text{CH}_2\text{C}(\text{O})\text{CH}_3$ which corresponds to a compound of formula (I-2). The Examiner considers the compound itself to represent a pharmaceutical composition with any residual traces of solvents and impurities corresponding to a carrier.

Claim Objections

11. Claims 7 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter

12. Claims 7, 9 are allowed Claim 19 is drawn to allowable subject matter. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art: Dobner et al (Chemistry and Physics of Lipids Synthesis of Deuterium-Labeled Methyl-branched Fatty Acids, 1991, 60(1), pages 21-28) and Akopyan et al (Armaysanskii Khimicheskii Zhurnal, 1976, 29(12), pages 1039-1042), either alone or in combination neither disclose nor fairly suggest the instantly claimed compounds, compositions and methods.

Conclusion

13. Claims 1, 7-9, 19 and 21 are pending. Claims 1, 8 and 21 are rejected. Claim 19 is objected to. Claim 7 and 9 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Zucker whose telephone number is 571-272-0650. The examiner can normally be reached on Monday-Friday 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Sullivan can be reached on 571-272-0779. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul A. Zucker/
Primary Examiner,
Art Unit 1621